

### **REMARKS/ARGUMENTS**

This paper is submitted in response to the office action mailed July 29, 2005.

In the office action the Examiner entered objections to minor claim and specification issues. The specification has been amended to correct the error noted. Claim 21 has been cancelled.

In addition, claims 1-6, 8-10, and 14-25 were rejected under 35 U.S.C. §102(b) as being anticipated by Acker, et al. (United States Patent No. 6,349,964). Claim 7 was rejected under 35 U.S.C. §103(a) over Acker in view of Wipasuramonton, et al. (United States Patent No. 6,270,113). Claims 11-13 were rejected under 35 U.S.C. §103(a) over Acker. Claims 26-34 were allowed.

By this paper claims 1, 3, 4, and 6 have been amended. Claims 2 and 14-25 have been cancelled. New claims 35-36 have added. Accordingly, claims 1, 3-13, and 26-36 are presented for reconsideration and allowance by the Examiner.

#### **Rejections Under 35 U.S.C. §102(b)**

Claims 1-6, 8-10, and 14-25 were rejected under 35 U.S.C. §102(b). As noted above, claims 2 and 14-25 have been cancelled, rendering rejection of those claims moot. In the Office Action, the Examiner also rejected claims 1, 3-6 and 8-10 under 35 U.S.C. §102(b) as being anticipated by Acker. Such a reference properly anticipates a claim under 35 U.S.C. §102(b) “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131, *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Acker fails to disclose each and every element of claims 1, 3-6 and 8-10, as amended, and thus, does not anticipate claims 1, 3-6 and 8-10. The Applicants respectfully request that this rejection be withdrawn.

Claim 1 has been amended to specify the structure of the housing. Specifically, claim 1 now provides that the housing has a generally tubular shape with a first end, a second end and a curved wall extending therebetween. The first end of the housing is claimed to define a first axial aperture for enabling a first gas flow into the pelvic chamber. This feature is not taught or suggested in Acker. Accordingly, Acker does not anticipate claim 1 as amended.

Specifically, Acker teaches the use of openings 44 in the wall of the housing 30. *See*, Acker, Col. 4, lines 25-32. However, Acker does not teach the use of a housing which defines an axial aperture for enabling a first gas flow into the pelvic chamber. Accordingly, the claims are not anticipated by Acker.

**Rejections Under 35 U.S.C. §103(a)**


It is well settled that the Examiner has the burden to establish a *prima facie* case of obviousness. *See* MPEP §2142. If the PTO fails to establish a *prima facie* case of obviousness, the applicant is under no duty to submit evidence of nonobviousness. *Id.* A *prima facie* case of obviousness is established only if the Examiner shows that (1) there is some teaching, suggestion, or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference; (2) there is a reasonable expectation of success; and (3) the prior art teaches or suggests all of the claim limitations. *See id.* As a result of this paper, Applicants respectfully assert that the Examiner has failed to establish a *prima facie* case of obviousness regarding claim 7.

As discussed above, claim 1 has been amended to overcome the anticipation rejection. Accordingly, Ackers fails to teach each and every limitation of claim 1. Claim 7 is dependent on claim 1. Ackers fails to teach all of the limitations of claim 7. The Examiner combined Ackers and Wipasuramonton in order to reject claim 7 under 35 U.S.C. §103(a). The Examiner cited Wipasuramonton primarily for the teaching of a mounting feature as claimed in claim 7. However, like Ackers, Wipasuramonton fails to teach or disclose all of the features of claim 1. Accordingly, the combination of Ackers and Wipasuramonton fails to constitute a *prime facie* case of obviousness of claim 7, in view of the amendments to claim 1.

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Amdt. dated November 23, 2005  
Reply to Office Action of July 29, 2005

In view of the foregoing, Applicants respectfully submit that all of the pending claims are not in condition for immediate allowance. Accordingly, Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

  
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